

REMARKS

Claim 1 and its dependent claims 2, 9, 14, 17, 18, 19, 22 and 40, are patentable over Paufler et al., U.S. Patent 5,936,713 even when considered in combination with Gross, U.S. Patent 6,765,934. The Office Action agrees that Paufler does not teach a system that includes multiple light beam arrays each having a different intensity as claimed in claim 1, but suggests that it would have been obvious to employ a beam splitter as taught by Gross for such a purpose. This conclusion is flawed.

The Office Action overlooks the fact that the system described by Paufler already employs a beam splitter, namely the beam splitting cube 310. There is no suggestion whatsoever that one would now incorporate another beam splitter to produce light beams of different intensities (or for any other purpose). Instead, one of ordinary skill in the art would be lead to the conclusion that even using a beam splitter it is still desirable to use light beams of the same intensity, as is taught by Paufler.

By suggesting the combination of Paufler and Gross, the office Action appears to have merely deconstructed various constituent elements from the presently claimed invention and attempted to reassemble them in the prior art. Such hindsight reconstruction is not a permissible method of finding the motivation necessary to support a rejection under 35 USC 103. Indeed, if the Patent Officer were permitted to rely on rote invocation of this sort of obviousness-type analysis, the more sophisticated scientific fields would rarely, if ever, experience a patentable technical advance. See, e.g., *In re Rouffet*, 149 F.3d 1350, 1357 (Fed. Cir. 1998). Inasmuch as no proper suggestion for the combination of references being relied upon in support of the present rejection has been provided, this rejection should now be removed.

Claims 1-11, 13-22 and 40 are also patentable over Gross even when considered in combination with Sandstrom, U.S. Patent 6,618,185. The Office Action agrees that the Gross system for recording an image on a photosensitive surface fails to employ reflective spatial modulators as recited in claim 1. Instead, the modulators used by Gross are acoustic modulators. Nevertheless, the office Action suggests replacing these acoustic modulators with the reflective modulators described by Sandstrom.

This suggestion, however, overlooks the fact that a reflective modulator of the type described by Sandstrom affects not only the spatial modulation of the light incident thereon, but also its polarization (see, e.g., Specification at para. [0034]). There is no suggestion that such a

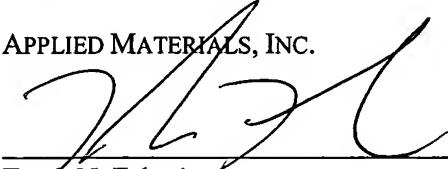
polarization shift can or should be accommodated in the system described by Gross. Hence, there is no reasonable expectation of success from such a combination and so the combination is not likely one that would be made by those of ordinary skill in the art. For at least these reasons the claims are patentable over this combination of references.

Likewise claim 23 and its dependent claims, 24-39 and 41, are patentable over Gross even when considered in combination with Johnson, U.S. Patent 6,301,000. Claim 23 specifically recites a binary modulated light beam array. Such a light beam array is not disclosed by Gross. Moreover, the suggested combination with Johnson overlooks the fact that a binary modulator of the type described therein affects not only the modulation of the light incident thereon, but also its polarization (see, e.g., Specification at para. [0037]). There is no suggestion that such a polarization shift can or should be accommodated in the system described by Gross. Hence, there is no reasonable expectation of success from such a combination and so the combination is not likely one that would be made by those of ordinary skill in the art. For at least these reasons, claim 23 and its dependent claims are patentable over this combination of references.

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Respectfully submitted,

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